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The authorities are divided as to whether a carrier is under insurer's liability for baggage sent ahead by one who later does not make the trip in person. *Marshall v. Pontiac R. R. Co.*, 126 Mich. 45, 85 N. W. 242; *McKibbin v. Wisconsin Ry. Co.*, 100 Minn. 270, 110 N. W. 964. Cf. *Crout v. Yazoo R. R. Co.*, 131 Tenn. 667, 176 S. W. 1027. The principal case raises the reverse problem of liability for baggage forwarded, because of the passenger's delay, after the passenger's journey. There seems to be no good reason why baggage in such a case is not as much incidental to carriage of the person as where it is carried exactly contemporaneously; and if the carrier accepts it under the circumstances and transports it he should be held to the usual absolute liability. *The Elvira Harbeck*, 8 Fed. Cas. No. 4, 424; *Graffam v. Boston & Maine R. R. Co.*, 67 Me. 234. The weight of authority is in fact opposed to the principal case. *Warner v. Burlington R. R. Co.*, 22 Ia. 166; *Wilson v. Grand Trunk Ry.*, 57 Me. 138; *Williams v. Central Ry. of N. J.*, 93 App. Div. 582, 88 N. Y. Supp. 434; aff'd 183 N. Y. 518, 76 N. E. 1116. See *Bradley v. Chicago Ry. Co.*, 147 Ill. App. 397, 404. *Perry v. Seaboard Ry. Co.*, 171 N. C. 158, 88 S. E. 156, *contra*. The court probably is influenced unconsciously by the feeling that the rule of absolute liability is an historical anomaly not required to-day, and so abrogates that rule in a doubtful situation. See Joseph H. Beale, "The Carrier's Liability: Its History," 11 HARV. L. REV. 158; HOLMES, THE COMMON LAW, 164-205. The decision may thus be explained, though hardly supported. See also 39 STAT. AT L. 441; 53 CONG. RECORD (64th Cong., 1st Sess.), 9245, 9246, 12002, 12003.

CARRIERS — BAGGAGE — WHAT CONSTITUTES BAGGAGE. — As a result of the destruction of a steamer, various claims for the loss of baggage and personal effects were presented by the passengers. The claims *inter alia* included (1) large sums of money not necessary for the purposes of the trip, (2) the camera lenses of a newspaper photographer, who was traveling to take photographs, and (3) small amounts of Liberty Bonds, retained in possession for safe-keeping and not for the purposes of the trip. *Held*, that the claims be allowed as to the camera lenses and Liberty Bonds, but disallowed as to the sums of money. *The Virginia*, 266 Fed. 437.

The baggage and personal effects of a passenger for which a carrier may be liable include whatever articles are useful or convenient for the passenger with reference to the immediate necessities of the trip or its ultimate purposes. See *Macrow v. Great Western Ry. Co.*, L. R. 6 Q. B. 612; *Saunders v. So. Ry.*, 128 Fed. 15. And in deciding the question due regard must be paid to the social status of the passenger, and the particular nature of his journey. *Ry. Co. v. Fraloff*, 100 U. S. 24; *Repp v. Indianapolis Traction Co.*, 184 Ind. 671, 111 N. E. 614. So articles connected with the occupation that prompts the trip, as the instruments of an army surgeon, the books of a student, or the guns of a hunter, are properly baggage. *Hannibal Ry. v. Swift*, 12 Wall. (U. S.) 262; *Hopkins v. Westcott*, 6 Blatch. (U. S. C. C.) 64; *Little Rock, etc. Ry. Co. v. Record*, 74 Ark. 125, 85 S. W. 421. Clearly the lenses of the newspaper photographer come within this category. So also sums of money, however large, if necessary for the trip are recoverable. *Merrill v. Grinnell*, 30 N. Y. 594; *Ill. Centr. Ry. Co. v. Copeland*, 24 Ill. 332. But as in the principal case, money, not needed for the trip and taken for some independent reason, is not recoverable. *First Nat'l Bk. of Greenfield v. Marietta, etc. Ry. Co.*, 20 Ohio St. 259. *Levins v. N. Y., N. H. & H. Ry. Co.*, 183 Mass. 175, 66 N. E. 803. The same rule would seem applicable to the Liberty Bonds. They were not carried for the purpose of the trip, but merely for safe-keeping, and recovery as to them was improper.

CONSTITUTIONAL LAW — CLASS LEGISLATION — DUE PROCESS OF LAW — PENALTY FOR DELAYED PAYMENT OF WAGES. — Defendant owed plaintiff

\$12.³² wages at the time of his discharge. Plaintiff sued and recovered \$500 under a statute providing that wages should be paid by certain employers at specified times, and exacting an additional payment of ten per cent of the amount due for each day's default. (1913 MICHIGAN PUBLIC ACTS, Act 59; 1915 MICHIGAN COMPILED LAWS, §§ 5583-5586.) Defendant appeals on the ground that the statute violates the United States and Michigan constitutions, in denying equal protection of the laws, and in taking property without due process of law. *Held*, that the statute is unconstitutional. *Davidow v. Wadsworth Manufacturing Co.*, 53 Chicago Legal News, 98 (Mich.).

The court concerns itself chiefly with the argument that the statute discriminates between employers, and thus denies to those included the equal protection of the laws. On this ground the decision is supportable. A more interesting question is whether the imposition of the penalty is a denial of due process. More or less similar penalties have been upheld. *Missouri P. R. Co. v. Humes*, 115 U. S. 512; *Minneapolis & St. L. R. Co. v. Beckwith*, 129 U. S. 26; *Fidelity Mutual Life Ass. v. Mettler*, 185 U. S. 308; *Farmers' & Merchants' Ins. Co. v. Dobney*, 189 U. S. 301; *Seaboard A. L. R. v. Seegers*, 207 U. S. 73; *Yazoo & M. R. Co. v. Jackson Vinegar Co.*, 226 U. S. 217; *Kansas C. S. R. Co. v. Anderson*, 233 U. S. 325; *Skinner v. Garnett Gold-Mining Co.*, 96 Fed. 735; *Farrell v. Atlantic C. L. R. Co.*, 82 S. C. 410, 64 S. E. 226; *Phillips v. Missouri P. R. Co.*, 86 Mo. 540; *Houston & T. C. R. Co. v. Harry*, 63 Tex. 256. Where penalties have been declared unconstitutional, the *ratio decidendi* has usually been discrimination. *Gulf, C. & S. F. R. Co. v. Ellis*, 165 U. S. 150; *Atchison, T. & S. F. R. Co. v. Vosburg*, 238 U. S. 56; *Wilder v. Chicago & W. M. R. Co.*, 70 Mich. 382, 38 N. W. 289. But some cases turn, at least in part, on denial of due process. *Atchison & N. R. Co. v. Baty*, 6 Nebr. 37; *San Antonio & A. P. R. Co. v. Wilson*, 19 S. W. 910 (Tex. App.). Whether or not the mere size of a penalty otherwise constitutional may bring it within the constitutional prohibition has not been decided, though there are intimations to that effect. See *Southwestern T. & T. Co. v. Danaher*, 238 U. S. 482; *Seaboard A. L. R. v. Seegers*, *supra*, 78-79; *Waters-Pierce Oil Co. v. State of Texas*, 212 U. S. 86, 111. Statutes are unconstitutional if the size of the penalty indirectly coerces one to forego testing the validity of the statute. *Missouri P. R. Co. v. Tucker*, 230 U. S. 340. But such cases are not authority for holding that size alone, where it has no such effect, may make a penalty unconstitutional. The application of the Fourteenth Amendment is largely a matter of practical judgment; and a slight variation of fact may cause the court to distinguish cases seemingly alike. Compare *Gulf, C. & S. F. R. Co. v. Ellis*, *supra*, and *Fidelity Mutual Life Ass. v. Mettler*, *supra*. It is impossible to argue authoritatively from precedent, which is useful only as a guide. See COLLINS, THE FOURTEENTH AMENDMENT AND THE STATES, 118.

CONSTITUTIONAL LAW — EIGHTEENTH AMENDMENT — EFFECT ON PRIOR EXISTING STATE LEGISLATION. — After the Eighteenth Amendment went into effect, defendant was convicted under a pre-existing state statute of selling liquor without a license. Defendant appealed on the ground that the state law is no longer enforceable. *Held*, that the conviction be affirmed. *Commonwealth v. Nickerson*, 128 N. E. 273 (Mass.).

Defendants were arrested for having liquor in their possession in violation of a Florida statute. The defendants applied for a writ of *habeas corpus*. *Held*, that the prisoners be remanded. *Ex parte Ramsey*, 265 Fed. 950.

For a discussion of these cases, see NOTES, p. 317, *supra*.

CONTRACTS — DEFENSES: IMPOSSIBILITY — CHANGE IN FOREIGN LAW. — The defendants chartered a ship from a Spanish company to carry cargo from Calcutta to Barcelona, payment to be made in Spain upon arrival of the goods.